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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,255	02/17/2004	Eldon Roth	317.1030001	9650
35236	7590	06/08/2006		
THE CULBERTSON GROUP, P.C. 1114 LOST CREEK BLVD. SUITE 420 AUSTIN, TX 78746			EXAMINER CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 06/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/780,255  
Filing Date: February 17, 2004  
Appellant(s): ROTH, ELDON

Russell D. Culbertson  
For Appellant

**EXAMINER'S ANSWER**

**MAILED**  
JUN 08 2006  
**GROUP 1700**

This is in response to the appeal brief filed May 16, 2006 appealing from the Office action mailed September 16, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

3,023,109

HINES

2-1962

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 17-21, 23-26 and 28-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Roth in view of Hines. This rejection is fully set forth in prior Office action, Paper No. 041905, paragraph no. 3.

**(10) Response to Argument**

Although Hines does not suggest directly adding an ammonium hydroxide solution to a comminuted meat product, as appellant argues, gaseous ammonia does directly contact the meat product in Hines to produce a bright red color on the meat surface (claim 1). Upon contacting the meat, the ammonia gas will react with water or moisture in and on the meat, regardless of the amount present, and thereby form, in situ, ammonium hydroxide on the meat surface. This is substantially equivalent to appellant's step of adding the ammonium hydroxide solution to the meat since, in both instances, ammonium hydroxide will react with the meat to produce a bright red color. There is no factual evidence of record, e.g. unexpected results, to support a contrary conclusion and thus, there is no patentable distinction between the two procedures.

Whereas Roth does not disclose ammonia gas as a viable working gas in the process described therein, Hines clearly provides motivation for use of ammonia gas in Roth since Roth desires to improve color retention in meat (col. 6, lines 1-11) with a working gas, and since Hines discloses that ammonia gas will provide just such a result. Additionally, the contact time period between the meat and ammonia gas in Hines and

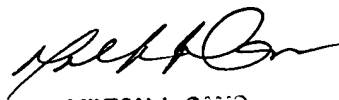
Art Unit: 1761

between the meat and working gas in Roth coincide, with the preferred times overlapping at two minutes (Roth, col. 6, lines 12-18 and 31-33 and Hines, col. 1. lines 60-65 and claim (claim 1). Such a contact time will limit exposure of the meat to the ammonia while improving the color of the meat. Therefore, appellant's remarks, on pages 6-7 of the brief, with regard to treatment time are without merit.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

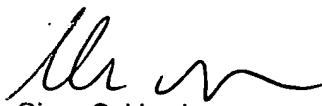
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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A handwritten signature in black ink, appearing to read 'A. Corbin', with a long horizontal line extending to the right.

Arthur L Corbin  
Primary Examiner  
Art Unit 1761

6-1-08